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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,777	03/19/2004	Michael H. Meyer	TOMZ 2 00441	7788
27885	7590	01/08/2007		
FAY SHARPE LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER WAGGONER, TIMOTHY R	
			ART UNIT	PAPER NUMBER
			3651	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/804,777

Applicant(s)

MEYER ET AL.

Examiner

Timothy R. Waggoner

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/19/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-5 and 8-17 in the reply filed on 11/13/2006 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel et al. US 2001/0032860 in view of Pastore USPN 4,234,101.

(Re claim 1,13,14,17) Roethel discloses a cup dispenser comprising:

"a body defining a storage region" (10 figure 1). "a mounting collar connected to said body" (50 figure 1). "a resilient diaphragm located adjacent an open end of said storage region" (80 figure 1). "a clamp-member" (84 figure 1).

Roethel does not disclose the clamp-member and the mounting collar being mounted with a snap-fit.

Roethel and Pastore both teach the use of snap-fit in a cup dispenser, Pastore teaches that interchangeable components snap-fit.

It would be obvious to one skilled in the art to modify the clamp-member of Roethel to have a snap-fit engagement with the mounting collar because it allows for interchangeability reliable mounting.

(Re claim 2,15) "collar comprises at least one stud (36 figure 1, Pastore) ... clamp-member includes at least one notch (37 figure 1, Pastore) ... provide said snap-fit engagement".

(Re claim 3,16) "plurality of studs (36 figure 1, Pastore) ... plurality of notches (37 figure 1, Pastore)".

(Re claim 4) "studs is defined as a one-piece construction with said flange of said mounting collar" (36 figure 1, Pastore).

(Re claim 5) "mounting collar, said flange, and said plurality of mounting studs are al dfined together as a one-piece molded polymeric construction" (31,36 figure 1, Pastore), (50 figure 1, Roethel).

(Re claim 8) "body defines a plurality of bosses (40c figure 1, Roethel) ... mounting collar comprises a plurality of recesses into which said bosses are respectively received (56c figure 1, Roethel)".

(Re claim 9) "collar comprises a tubular projection including an outermost edge, and wherein said diaphragm is mounted to said outermost edge of said tubular projection" (20 figure 1, Roethel).

(Re claim 10) "outermost edge of said tubular projection comprises a radially enlarged bit tooth extending at least partially around" (20 figure 1, Roethel).

(Re claim 11) "storage region of said body extends through said mounting collar, and wherein said diaphragm is placed in covering relation over said open end" (figure 1, Roethel).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel/Pastore as applied to claims 1-5,8-11 and 13-17 above, and further in view of Sciascia USPN 3,581,934

Roethel/Pastore discloses a cup dispenser comprising the dispenser claimed in claim 3.

Roethel/Pastore does not disclose indicia marking the location of the notches.

Sciascia teaches indicia marking the location of notches.

It would be obvious to one skilled in the art to modify the clamping member of Roethel/Pastore to include indicia marking the locations of its notches because it makes it easier to align the parts when assembling.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPNs 6,199,723 and 5,222,628.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRW


GENE C. CRAWFORD
SUPERVISORY PATENT EXAMINER